

REMARKS

Claims 1-64 and 69-71 are pending. Claims 65-68 are withdrawn. In view of the following remarks, Applicants respectfully submit that all pending claims are in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claim Rejection Under 35 U.S.C. § 103

Claims 1-64, 70, and 71 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fpix (web archive), in view of Bakos, The Emerging Role of Electronic Marketplaces on the Internet. Applicants traverse.

As a preliminary matter, originally filed claim 69 is missing from the statement of rejection under 35 U.S.C. § 103. Claim 69 is included in the Office Action Summary.

The Office Action states:

the art is directed to an electronic lumber marketplace and teaches: designating a non-trading central authority (fpix); **screening a plurality of entities to identify a plurality of authorized traders, the screening performed by the central authority having a registry of the plurality of authorized traders and a standardized sales contract having pre-approved terms (realtime interactive bid and offer)**; submitting terms for trading the commodity from at least two traders of the plurality of authorized traders (immediate transaction record); and entering into an agreement for a sales contract based upon the submitted terms of each trader of at least two traders of the plurality of authorized traders and the pre-approved terms of the standardized sales contract (immediate transaction records) (*emphasis added*).

The Applicants respectfully disagree.

In contrast, the second paragraph on page 2 of the Office Action, the Examiner *acknowledges* that fpix fails to expressly teach screening a plurality of entities to identify a plurality of authorized traders, a registry of authorized traders, and a standardized sales contract having pre-approved terms.

The Examiner's statement directly contradicts the previous statement and the express requirements of claim 1. Further, the Examiner ignores the claim limitations of dependent claims 2-25, and independent claims 26, 43, 48, 63, and 64 and their respective dependent claims. It is legally erroneous for the Examiner to ignore any claim limitation. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Turning to fpix, this reference describes an international exchange for forest products having industry news and advertising. Fpix is *silent* regarding pre-approved terms of a standardized sales contract, screening a plurality of entities to identify a plurality of authorized traders, and entering into an agreement for a sales contract based upon the submitted terms of each trader of at least two traders of the plurality of authorized traders and the pre-approved terms of the standardized sales contract, as required by claim 1. Fpix is *silent* regarding a server connected to the network where the server has a server memory medium storing information indicative of a plurality of authorized traders, and one or more server processors is configured for determining whether the client is a trader client belonging to a trader of the plurality of authorized traders, for accepting terms from the trader client, and for entering into a sales contract for the commodity based upon the terms from the trader client of each of at least two contracting traders, if the terms from the client of each trader indicates an agreement, as required by independent claim 26. Fpix is *silent* regarding submitting terms for a sales contract for a commodity onto the server and if the submitted terms indicate agreement, then entering into an agreement by computer for the sales contract for the commodity based upon the submitted terms of each of at least two contracting traders, as required by claim 43. Fpix is *silent* regarding a computer-readable medium where the medium bearing instructions for causing one or more processes to determine whether a client process is a trader client belonging to a trader of the plurality of authorized traders, as required by

claim 48. Fpix is *silent* regarding a client memory medium for storing contract information about a sales contract for the commodity where the contract information is received in a standard format from a server computer which constructed the sales contract, and one or more client processors configured for executing an accounting process that uses the contract information in the standard format, as required by independent claim 63. Fpix is *silent* regarding a computer-readable medium where the medium bearing instructions cause one or more processes to store contract information about a sales contract for the commodity and the contract information is received in a standard format from a server computer which constructed the sales contract and executes an accounting process that uses the contract information in the standard format, as required by independent claim 64. Fpix fails to disclose or suggest, at a minimum, "...entering into an agreement for a sales contract based upon the submitted terms of each trader of at least two traders of the plurality of authorized traders and the pre-approved terms of the standardized sales contract," as required by claim 1.

The Office Action relies on Bakos in an attempt to cure the deficiencies of fpix. The Office Action asserts that Bakos teaches that it is well known to add reputations and credit systems to electronic market places.

The Examiner does not point out any teaching or motivation in Bakos to suggest screening a plurality of entities to identify a plurality of authorized traders, a registry of authorized traders, and a standardized sales contract having pre-approved terms, as required by claim 1. Further, the Office Action asserts that it would have been obvious for one skilled in the art at the time to have combined the teaching and to add a screening module to the fpix system.

The rejection presented in the outstanding Office Action has set forth the rationale that "the motivation to combine is to reduce the credit risks to the parties." The Examiner concludes

that this same line of logic applies to claims 2-6. The Office Action is setting forth a motivation rationale not supported by the record, but rather based solely on the Examiner's belief of what one skilled in the art may have tried or recognized.

However, to set forth a prima facie § 103 rejection, there must be some evidenced reason for modifying a reference. Specifically, there must be evidence, outside of the present application, which motivates, leads, or suggests to one of ordinary skill to modify a reference. Applicants disclosure is forbidden territory for the Examiner to obtain the requisite motivation for combining the applied prior art. *Panduit Corp. v. Dennison Mfg. Co.*, 774 F.2d 1082, 227 USPQ 337 (Fed. Cir. 1985).

Bakos fails to disclose or suggest, at a minimum, "...screening a plurality of entities to identify a plurality of authorized traders, the screening performed by the central authority having a registry of the plurality of authorized traders and a standardized sales contract having pre-approved terms; submitting terms for trading the commodity from at least two traders of the plurality of authorized traders; and entering into an agreement for a sales contract based upon the submitted terms of each trader of at least two traders of the plurality of authorized traders and the pre-approved terms of the standardized sales contract," as recited in claim 1. Thus, Bakos fails to cure the deficiencies of fpix. Accordingly, the Examiner's proposed combination of references would not yield the claimed subject matter. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Dependent claims 2-25 are allowable for at least for the same reasons as independent claim 1, and further distinguish the claimed method for completing trades in a market for a commodity.

Further, the Examiner ignores the claim limitations of independent claims 26, 43, 48, 63, and 64, and their respective dependent claims. As, such, these claims are patentably distinct over the applied prior art. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, supra. It is respectfully submitted that claims 26-64 and 69-71 also are patentably distinguishable over the cited references.

Withdrawal of the foregoing rejections is respectfully requested.

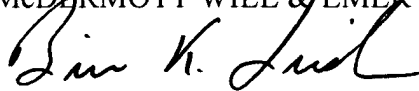
Conclusion

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Response or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:LAK
Facsimile: 202.756.8087
Date: February 11, 2008
WDC99 1503608-1.048897.0025

**Please recognize our Customer No. 20277
as our correspondence address.**